

1
2
3
4
5
6
7
8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 UNITED STATES OF AMERICA,)
11 Plaintiff,) Case No. 2:15-mj-00627-NJK
12 vs.) ORDER DENYING MOTION TO
13 FERNANDO GAMBOA HOWARD,) CONTINUE HEARING
14 Defendant.) (Docket No. 27)
15

16 Pending before the Court is Defendant Fernando Gamboa Howard's motion to continue his
17 status, identity, detention and scheduling hearing. Docket No. 27. The motion, filed at 4:15 p.m. on
18 November 16, 2015, requests a continuance of the hearing, set for 9:00 a.m. on November 17, 2015.
19 *Id.* The reasons stated are an emergency hearing on another case set for the same time as the instant
20 hearing, and the fact that an attorney hired by the family to assist in the defense is currently out of the
21 country and has thus far been unable to obtain a copy of the case file in the Mexican case. *Id.* at 1-2.

22 Upon receiving Defendant's motion, the Court continued the instant hearing to 9:45 a.m., so that
23 counsel can complete the emergency hearing. Docket No. 28. The Court also ordered the United States
24 to file a response indicating whether it objects to further continuance. *Id.* The United States did so,
25 indicating that it does, in fact, object. *See* Docket No. 29.

26 Defendant made his initial appearance before the Court on the instant Complaint on August 4,
27 2015. Docket No. 4. The status, identity, detention and scheduling hearing was initially set for August
28 13, 2015. Docket Nos. 8, 11. Since that time, four continuances have been requested by the parties, and

1 granted by the Court. Docket Nos. 13, 15, 16, 17, 19, 20, 21, 22. Defendant has now been in custody
2 awaiting this hearing for over three months.

3 The attorney who is currently out of the country is not counsel of record. *See* Docket. Further,
4 the Court finds it inconceivable that this attorney did not know he would be out of the country or would
5 not have a necessary file prior to 4:15 p.m. the day before a hearing that has been set since October 2,
6 2015. *See* Docket Nos. 22, 27. The United States has subpoenaed its witnesses in reliance upon the
7 Court Order setting the hearing and, as presented by the United States, both the United States and
8 Mexico have “a right and a justified expectation that their treaties regarding extradition be enforced in
9 a timely manner by both countries.” Docket No. 29 at 1-2.

10 Accordingly,

11 IT IS ORDERED that Defendant’s Motion to Continue, Docket No. 27, is **GRANTED** in part
12 and **DENIED** in part.

13 IT IS FURTHER ORDERED that the hearing set to begin on November 17, 2015, at 9:00 a.m.
14 will now begin on **November 17, 2015, at 9:45 a.m.**

15 IT IS FURTHER ORDERED that Defendant’s request for further continuance is **DENIED**.

16 IT IS SO ORDERED.

17 DATED: November 17, 2015.

18
19 
20 NANCY J. KOPPE
21 United States Magistrate Judge
22
23
24
25
26
27
28